

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Deshon Hereford,
5 Petitioner

6 v.

7 Neven *et al*,

8 Respondents
9

2:14-cv-01390-JAD-CWH

**Order Granting Respondents' Motion
to Dismiss
[ECF 6]**

10 Pro se inmate Deshon Hereford filed a petition for a writ of habeas corpus challenging his
11 2008 Nevada state convictions.¹ Hereford alleges that he received ineffective assistance of counsel
12 during both his trial and direct appeal.² Respondents moved to dismiss arguing that Hereford's
13 petition was untimely under the AEDPA,³ and that Hereford failed to factually support the
14 allegations in his petition.⁴

15 As required under *Klinge v. Eikenberry*⁵ and *Rand v. Rowland*,⁶ I cautioned Hereford that
16 failure to respond to respondents' motion to dismiss could result in the dismissal of his claims.⁷ I
17 instructed him that if he did not agree that his claims should be dismissed, he "must file . . . points
18
19

20 ¹ Hereford was convicted of two counts conspiracy to commit a crime; two counts of burglary while
21 in possession of a deadly weapon; and three counts of robbery with use of a deadly weapon. ECF 8-
22 16.

23 ² ECF 3.

24 ³ 28 U.S.C. § 2244.

25 ⁴ ECF 6 at 4.

26 ⁵ *Klinge v. Eikenberry*, 849 F.2d 409 (9th Cir. 1998).

27 ⁶ *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998).

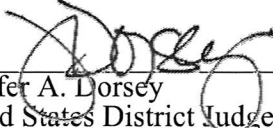
28 ⁷ ECF 12 at 2.

1 and authorities in opposition within 14 days of” respondents’ motion.⁸ Hereford has not opposed
 2 respondents’ motion or requested an extension to file an opposition, and the deadline for doing so
 3 passed more than six months ago.⁹

4 Local Rule 7-2(d) provides, “[t]he failure of an opposing party to file points and authorities in
 5 response to any motion shall constitute a consent to the granting of the motion.” As Hereford has
 6 filed no opposition to respondents’ motion to dismiss his petition, I deem his failure a concession
 7 that the arguments are valid and a consent to dismissal of his petition.¹⁰ Accordingly, with good
 8 cause appearing and no reason to delay,

9 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that respondents’ motion to
 10 dismiss [ECF 6] is **GRANTED**. Hereford’s petition for writ of habeas corpus is dismissed with
 11 prejudice. The Clerk of Court is instructed to **CLOSE** this case.

12 Dated this 27 day of August, 2015

13
 14 
 15 Jennifer A. Dorsey
 16 United States District Judge
 17
 18
 19
 20
 21
 22
 23

24 ⁸ *Id.*

25 ⁹ Respondents filed their motion to dismiss on February 9, 2015, Hereford’s response was due 14
 26 days later on February 23, 2015. ECF 6. There is no indication that any motions or orders posted to
 27 Hereford were returned as undeliverable, and Hereford has not notified me of a change of address.

28 ¹⁰ I note, without deciding, that the exhibits provided by respondents appear to demonstrate that
 Hereford’s petition is indeed untimely under the AEDPA. *See* 28 U.S.C. § 2244(d)(1)(A)-(D).